

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7287 OF 2004

Kalyan Donbivli Municipal Corporation .. Petitioners

vs.

Sunil Balkrishna Bhawe and anr. .. Respondents

Mr. Indrajeet R. Kulkarni for petitioners.
Mr. R.G. Ketkar for Respondent No.1.

CORAM: B.H. MARLAPALLE, J.

Date : July 15, 2005.

P.C.:

1. Heard Mr. Kulkarni the learned counsel for the petitioners-Corporation and Mr. Ketkar the learned counsel for the respondent no.1-complainant

2. This petition impugns the order dated 23/6/2004 which is an interlocutory order passed by the Industrial Court of Maharashtra at Thane below Exh. U-2 in Complaint (ULP) No.418 of 2003. By the said order the learned Member of the Industrial Court held that the complainant made out a prima facie case of unfair labour practice under items 5 & 9 of Schedule IV of the MRTU and PULP Act and balance of

convenience was in favour of the complainant. Consequently, the petitioners were directed to consider the complainant for giving promotion on temporary basis for the post of Sub Station Officer, in the vacant post available with it, during the pendency of the complaint without prejudice to the claim of the rest of eligible candidates.

3. The Industrial Court noted that the complainant was holding a post of Sub Fire Officer on a temporary basis for a long period of nine years and the order passed in the earlier complaint registered as Complaint (ULP) No.485 of 1997 did not envisage that the temporary promotees were required to be reverted. The said order has merely stated that the Corporation shall consider the complainant for promotion as and when posts of Sub Fire Officer are to be filled in either by direct recruitment or by promotion. The interlocutory order keeps in mind the payscale or increment and it does not prejudice the claim of any of the other eligible candidates. No interference is, therefore, called for in the interlocutory order by exercising powers under Article

227 of the Constitution.

4. Writ Petition is, therefore, rejected summarily and the trial of the Complaint (ULP) No.418 of 2003 is hereby expedited. Writ to go forthwith.

(B.H. Marlapalle, J.)